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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,865	04/19/2001	Kenichi Nishiuchi	10873.704USW	6282
7590 05/12/2004				
Merchant & Gould PO Box 2903 Minneapolis, MN 55402-0903				
EXAMINER HUBER, PAUL W				
ART UNIT		PAPER NUMBER		
2653		8		
DATE MAILED: 05/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,865

Applicant(s)

NISHIUCHI ET AL

Examiner

Paul Huber

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
- 2) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
4a) Of the above claim(s) 6-10 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 and 11-30 is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-5.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Applicant's election of Group I (claims 1-5 & 11-30) in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Satoh et al. (USP-5,303,225).

Satoh et al discloses an optical information recording medium 1, comprising: a substrate 2; and at least two information layers 3 & 4 formed on the substrate, the information layer being formed of a thin film showing a change that can be detected optically by light beam irradiation. A separating layer 5 is formed between the information layers 3 & 4, which is transparent to a wavelength of the light beam. Each information layer includes: a sector area S having sector address portions ID and data areas DF for recording information signals, the sector address portions ID and the data area DF being divided in a circumferential direction; a management area LA on which a type of information layer is written; and a sector position identifier SA for identifying a sector position, having a certain relationship to the sector area S of the information layer in the circumferential direction. The sector position identifier SA relates to the sector area S in the sense that it identifies a particular sector area amongst the plurality of sector areas S aligned in the circumferential direction of a track.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fushimi et al and Mons et al. each disclose an optical recording medium including a plurality of recording layers formed thereon.

Claims 1-4 and 11-30 are allowed.

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The following is an examiner's statement of reasons for allowance:

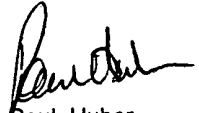
(1) The prior art of record considered as a whole fails to teach or suggest an optical information recording medium, or recording method for the optical information recording medium, the optical information recording medium comprising a substrate and at least two information layers formed on the substrate, the information layer being formed of a thin film showing a change that can be detected optically by light beam irradiation, wherein a separating layer that is transparent to a wavelength of the light beam is formed between the information layers, each information layer comprises a sector area having sector address portions and data areas for recording information signals, the sector address portion and the data area being divided into a circumferential direction, and **at least one of the information layers is provided with identification information about an amount of dislocation between the sector address portions of the respective information layers in the circumferential direction.**

(2) The prior art of record considered as a whole further fails to teach or suggest a recording/reproducing apparatus for an optical information recording medium, performing recording/reproduction of information signals on the optical information recording medium, the optical information recording medium comprising a substrate, at least two information layers formed on the substrate, and a separating layer formed between the information layers, the information layer being formed of a thin film showing a change that can be detected optically by light beam irradiation, the separating layer being transparent to a wavelength of the light beam, and each information layer comprising a sector area having sector address portions and data areas for recording information signals, the sector address portion and the data area being divided into a circumferential direction, **the recording/reproducing apparatus comprising: a sector dislocation identifying means for detecting an amount of dislocation between the sector areas of the respective information layers in the circumferential direction, a gate generation means for controlling timing for correcting fluctuation in recording power, caused by an effect of a recorded state of each information layer, based on the detected dislocation amount, and a power switching means for switching recording power in accordance with a gate signal from the gate generation means.**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication should be directed to Paul Huber at telephone number 703-308-1549.

A handwritten signature in black ink, appearing to read 'Paul Huber', with a stylized, cursive script.

Paul Huber
Primary Examiner
Art Unit 2653

pwh
May 10, 2004